

SENATE BILL 940

By Oliver

AN ACT to amend Tennessee Code Annotated, Section 8-23-203; Title 12 and Title 50, Chapter 2, relative to the minimum wage.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 2, Part 1, is amended by adding the following language as a new section:

50-2-115.

(a) As used in this section:

(1) "Commissioner" means the commissioner of labor and workforce development;

(2) "Department" means the department of labor and workforce development;

(3) "Employ" means to permit or suffer to work in employment or a gainful occupation;

(4) "Employee" means a person born or naturalized in the United States and subject to the jurisdiction thereof, or a person legally present in this country, either of whom is employed by an employer;

(5) "Employer" includes an individual, partnership, association, corporation, business trust, legal representative, or any organized group or persons acting directly or indirectly in the interest of an employer in relation to an employee; and

(6) "Wages" means compensation paid to an employee in the form of legal tender of the United States or checks or drafts on banks negotiable into

cash on demand or upon acceptance at full value. Wages may include the reasonable cost to the employer, as determined by the commissioner, of furnishing meals or lodging to an employee, if furnished by the employer and used by the employee.

(b) An employer shall pay an employee wages at an hourly rate not less than the greater of:

(1) The federal minimum wage established pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), as amended; or

(2) Twelve dollars (\$12.00) an hour.

(c) Notwithstanding subsection (b), an employer shall not pay an employee less than one and one-half (1.5) times the regular wage rate for any work done by the employee in excess of forty (40) hours during a work week.

(d) An employer subject to this section shall keep a summary of this section and any applicable wage rules posted in a conspicuous and accessible place in or about the premises of the employer's place of business.

(e) An employer who violates the minimum wage requirements of this section is liable to the employee affected for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of an employee in an action brought in a court of competent jurisdiction to recover unpaid wages under this section, the judgment must include, in addition to the unpaid wages adjudged to be due, an amount equal to the unpaid wages as damages. In addition to a judgment awarded to the employee, the court shall require the employer to pay court costs and reasonable attorneys' fees incurred by the employee.

(f) An action to recover damages pursuant to this section must be instituted within two (2) years from the date the wages were due, except in a case where the

complaint filed with the court alleges the employer willfully violated this section, then the action to recover damages must be instituted within three (3) years.

(g) In the administration of this section, the commissioner shall cooperate, to the fullest extent with this section, with the administrator of the wage and hour division of the United States department of labor.

(h) This section does not affect or in any way diminish the right of employees to bargain collectively through representatives of the employees' own choosing in order to establish wages in excess of the applicable minimum wages under this section.

(i) Employees excluded pursuant to 29 U.S.C. § 213 are exempt from this section to the same extent the employees are exempt under the federal law.

(j) Within existing resources of the department, the commissioner shall promulgate rules to effectuate this section that are consistent with the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.). The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2024, the public welfare requiring it.